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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,232	11/09/2001	Fred C. Webb	01-1147	9871

7590 05/18/2004

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,232

Applicant(s)

WEBB ET AL.

Examiner

Gregory J. Strimbu

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004 and 29 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-12 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/29/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: figures 6A, 6B and 6C of Denker.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Denker. Denker discloses a device for opening a door 18, the device comprising a receptacle structure 30 coupled to the door 18, the receptacle structure having a top surface (not numbered, but shown in figure 6A) and an angled guide surface (not numbered, but seen in figure 6A), the top surface forming an angled protrusion (not numbered, but seen as the 90 degree portion adjacent the guide receptacle 28), the receptacle structure having a receptacle 28 formed between the top surface and the angled guide surface, a latching rod 24, a sliding assembly 25 coupled to the latching rod, wherein movement of the sliding assembly from the position shown in figure 6C to the position shown in 6B causes the latching rod to contact the angled protrusion, wherein the contact of the latching rod with the angled protrusion of the receptacle structure causes the rod to push the receptacle structure and the door to a partially open position, wherein after the latching rod contacts the angled protrusion, the latching rod navigates across the angled guiding surface of the receptacle structure thereby pushing the receptacle structure and the door to a further partially open position (see the transition from figure 6B to figure 6A).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 6, 7, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denker as applied to claims 1, 5, 9 and 10 above. Denker is silent concerning the particular angles of the angled protrusion and the angled guiding surface. However, one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious matter of engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide the angled protrusion with an angle of approximately 30 degree with a vertical axis to increase the movement of the door when the latching rod engages the angled protrusion and to provide the angled guiding surface with an angle of approximately 57 degrees with a vertical axis to improve the aesthetics of the device.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denker as applied to claims 1, 5, 9 and 10 above. The use of the apparatus of Denker would inherently lead to the method steps set forth in claim 8.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denker as applied to claims 1, 5, 9 and 10 above, and further in view of Gratz. Gratz discloses a foot pedal 13 operated door device.

It would have been obvious to one of ordinary skill in the art to provide Denker with a foot pedal, as taught by Gratz, to increase the ease with which the door device can be operated.

Response to Arguments

Applicant's arguments filed February 23, 2004 have been fully considered but they are not persuasive.

With respect to the applicant's comments concerning Denker, the examiner respectfully disagrees. As shown in the attached figure 6A, Denker discloses a rod 24 and an angled protrusion. As shown in figure 6B, the rod 24 interacts with the angled protrusion to move the door to a further open position. Compare figures 6C and 6B wherein the position of the door moves from a closed position in figure 6C to a partially open position in figure 6B. Additionally, Denker discloses an angled guiding surface as labeled on the attached figure 6A. As the rod 24 moves downwardly as shown in figures 6B and 6A, the rod engages with angled guiding surface to move the door to a further partially open position.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a stylized flourish extending from the end.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
May 17, 2004